

*United States Court of Appeals
for the Second Circuit*



APPENDIX

Dilig w/affidavit of mailing

76-1014

B
P/S

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 76-1014

UNITED STATES OF AMERICA,

Appellee.

—against—

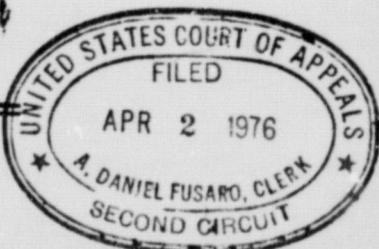
EDWIN GONZALEZ,

Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

GOVERNMENT'S APPENDIX

DAVID G. TRAGER,
United States Attorney,
Eastern District of New York



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Excerpts from Trial Transcript

A-1

1 27A

2 met Mr. Gonzalez.

3 Q That would be what day?

4 A January I believe. January.

5 Q Did you have any contact with Gonzalez in
6 December?7 A If I have my dates correct, the first time that
8 I met Mr. Gonzalez was that night, which would be the 27th.

9 Q Of January?

10 A Yes. If I have my dates correct. A lot of
11 dates.

12 Q When was the next time that you saw Gonzalez?

13 A It would be that -- the day that I made the
14 purchase of the two ounces of cocaine from him.

15 Q That would be in March?

16 A Yes.

17 Q Between March and January, had you -- had you
18 had any contact with Gonzalez?

19 A No.

20 Q Did you have a contact with Bermudez?

21 A Yes.

22 Q Did you speak to Bermudez about Gonzalez?

23 A I probably did. Yes.

24 Q Did you tell Bermudez between January and March,

25 "Let's get cracking. I need to do some business out here."

1 28A

A 2
Blackburn-cross/Flamhaft

2 You've got to make an introduction for me. You've got to help
3 yourself."

4 A No.

5 Q Did you have any conversations with Bermudez?

6 A Yes, I did.

7 Q Between January and March?

8 A Yes, I did.

9 Q Do you remember the substance of those
10 conversations?

11 A More or less. I didn't speak -- I may have
12 spoken to him once or twice in reference to the Gonzalez
13 brothers. But as I stated on my other testimony, that I was
14 not the case agent in that particular case. So my initiating
15 any type of action in that case was like unnecessary because
16 Special Agent Carr was the case agent, and I had my own cases
17 to be concerned with.

18 Q Do you know if anybody in the operation was
19 unhappy as to the time lapse between January and March as to
20 the contact with Gonzalez?

21 A I don't know if anybody was unhappy. No. How
22 can I say?

23 Q The operation began in December, did it not?

24 A Yes.

25 Q And the operation, assuming the purpose of the

1 29A

2 operation was to have some sales --

3 A No. The purpose of the operation, sir, is to
4 investigate, arrest and prosecute narcotic violators. Some-
5 times we have investigations that stretch for years, depending
6 on the type of investigation. And, as I said before, in this
7 particular case --

8 THE COURT: Please, Mr. Blackburn, don't go into
9 long explanations.

10 Q You had an informant in this case, someone who
1 involved?

12 THE COURT: I think that's been established.

13 Q Someone who could supply you with hot information.
14 We aren't you disappointed or disturbed that he hadn't done
15 anything for a couple of months?

16 A Agent Carr was involved as the case agent in
17 this case. I was not the case agent.

18 THE COURT: Were you disappointed.

19 THE WITNESS: No. Because I had -- I was
20 involved in other cases. And I knew that in time I
21 would get back to him. There was no rush.

22 Q Did you ever -- withdrawn.

23 At the meeting that you had with Gonzalez on
24 the 21st, was Bermudez there?

25 A Yes sir.

1 30A

4

Blackburn-cross/Flamhaft

2 Q Did Bermudez meet with you or contact you or
3 speak with you before you met with Gonzalez on that day?

4 A Yes.

5 Q Where did you meet Gonzalez on that day?

6 A Initially?

7 Q Yes.

8 A In the restaurant. 1167 Wilmar.

9 Q Could you describe the restaurant?

10 A Average size restaurant. You walk through the
11 door, it has a counter with stools on the left. It has three
12 telephones on the right. Directly behind the telephones there
13 are maybe four tables. Directly against the back wall would
14 be -- there was a doorway. Through the doorway was the
15 rest room and the kitchen area. Coming around to the left
16 there was the steam table where you had hot food. And behind
17 the counter, it was just regular counter stuff. And there was
18 windows on each side of the door.

19 Q It's a restaurant that has windows on the out-
20 side, is it not?

21 A Outside? Yes.

22 Q Yes. I mean plate glass.

23 A I don't know if that would be considered -- there
24 were large windows.

25 Q You could look through from the outside?

1 49A

Blackburn-cross/Flamhaft

2 apartment.

3 Q Did you notice closets in the apartment? Did
4 you notice the clothes in the apartment?

5 A No.

6 Q Had you seen any open closets in that apartment?

7 A I don't recall if I did or not.

8 Q You saw somebody sleeping in the bed?

9 A Yes.

10 Q Male or female?

11 A Male.

12 Q Anybody tell you who he was?

13 A I think Edwin referred to him as the old man or
14 something. I don't know. I don't recall. But he was quite
15 concerned that he didn't want to disturb him.

16 Q Was the door open when he got to the apartment?

17 A You mean when we first --

18 Q When you first entered.

19 A It was closed. It was opened by Mr. Julio
20 Gonzalez.21 Q How long were you in the apartment before you
22 say Eddie came out with some cocaine?23 A How long was I in the apartment before Eddie
24 came out with some cocaine?

25 Q Yes. You said Eddie came out with some cocaine.

A 6

53A

Blackburn-cross/Flamhaft

grand jury on August 18th, 1975 and giving this answer.

"Question: Returning to the 21st of March, 1975, you previously testified that Ramon, Julio and Edwin Gonzalez and an unidentified individual referred to as Cavo, were present at the time.

"Answer: Yes. Unidentified."

Do you remember giving this answer?

A Yes.

Q Who referred to him as Cavo?

A Mr. Bermude.

Q So you knew his name?

A At the time, no sir, I did not.

Q Well, --

A I knew his name, as I stated before. I obtained his name from Special Agent Carr.

Q Before you wrote the report?

A Before I wrote the report.

Q Did you mention anything in your report about Gonzalez brothers snorting before you left?

A May I -- I don't recall.

Q Do you want to look at your report?

A Yes. May I?

No sir, I do not.

Q Did you mention anything in your report about

1 54A

Blackburn-cross/Flamhaft

2 Bermudez sleeping in the bed?

3 A No. No sir, I did not.

4 Q Did you mention anything in your report about
5 meeting the kids downstairs?

6 A No sir, I do not.

7 Q Correct me if I am wrong, did you testify on
8 direct examination that you were advised by somebody in that
9 apartment to come back any time?

10 A By somebody in that apartment?

11 Q Yes. Did ~~you~~ testify on direct examination that
12 somebody in that apartment told you that you could come back
13 any time you wanted?

14 A Yes, I did say that.

15 Q Who said that to you?

16 A Mr. Gonzalez.

17 Q Which one?

18 A Edwin.

19 Q Did you mention that in your report?

20 A I don't know if I specifically stated that. But
21 he was the one. No, I didn't write it as you stated. No.22 Q Do you know or did you ever speak to Bermudez
23 about where he was on March 20th?

24 A March 20th?

25 Q Yes. The day before the sale?

1 55A

A 8
Blackburn-cross/Flamhaft

2 A No. No.

3 Q Did you -- did he ever tell you that he had seen
4 Gonzalez on March 20th?

5 A I don't remember asking him.

6 Q Did he ever tell you that he had seen Edwin
7 Gonzalez in an apartment belonging to the owner of the
8 grocery store and have asked him to hold the package for him?

9 A You're asking me if --

10 Q If Mr. Bermudez ever told you that?

11 A No.

12 Q Did you on March 21st see Edwin Gonzalez in an
13 apartment alone?

14 A In an apartment alone?

15 Q Yes.

16 A On the 21st of March?

17 Q Yes.

18 A No.

19 Q Did you on March 21st see Edwin Gonzalez in an
20 apartment alone where he was dressed or in a state of undress
21 with a towel around him?

22 A No.

23 Q On March 21st, did you see Gonzalez in an
24 apartment whereby Bermudez and you came into an apartment,
25 went into a bedroom, reached for something in the closet and

1 56A

Blackburn-cross/Flamhaft

2 walked out?

3 MR. ROCCO: Your Honor, I object for the simple
4 reason that apparently Mr. Flamhaft is trying to put
5 a case in through Agent Blackburn. If a witness is
6 going to testify in behalf of the defense, I think it
7 only fair that those witnesses testify.

8 THE COURT: Well, let me just tell the jury that
9 the case is decided on testimony, on answers from
10 witnesses. You have no right to infer from any
11 question that Mr. Flamhaft asks that there is any
12 basis for the question. Pay no attention to the
13 question, just to the answer.

14 MR. ROCCO: Thank you.

15 MR. FLAMHAFT: I would respectfully ask that
16 you not state, pay no attention to my question. I
17 would ask that you advise the jury to proceed both to
18 the question and answer --

19 THE COURT: They are to draw no inference from
20 the fact that you asked any question -- any of the
21 facts suggested in the answer.

22 All right, go ahead.

23 MR. FLAMHAFT: Thank you.

24 THE COURT: Mrs. Moskowitz, have you any
25 cross-examination.

1 57A

2 MRS. MOSKOWITZ: Yes.

3 CROSS-EXAMINATION

4 BY MRS. MOSKOWITZ:

5 Q Agent Blackburn, you are an experienced
6 undercover agent; is that correct?

7 A I have experience, yes.

8 Q And your object is to infiltrate the area and
9 to appear to the people you are dealing with as one of them;
10 is that correct?

11 A Yes.

12 Q And you don't speak Spanish; is that correct?

13 A Correct.

14 Q When you were speaking to Julio Gonzalez, you
15 spoke to him in English; is that correct?

16 A Yes, I did.

17 Q Would you say that this neighborhood was a
18 large -- a neighborhood that's composed mainly of Spanish
19 speaking people?

20 A Well, the people -- the cross-section of persons--

21 Q Will you answer my question.

22 THE COURT: He is answering.

23 THE WITNESS: Well, black and Spanish.

24 Q How many black people were in the restaurant
25 in which you were speaking to the Gonzalez brothers?

1 58A

Blackburn-cross/Moskowitz

2 A Everybody except Mr. Bermudez and Mr. Gonzalez.

3 Q Everybody was black?

4 A Yes.

5 Q Didn't you testify in response to Mr. Flamhaft's
6 question that you were the only black person in the
7 restaurant?

8 A No, I did not.

9 MRS. MOSKOWITZ: May we have that question and
10 answer read back.

11 THE COURT: Can you find it.

12 Well, we will take our mid-morning recess. The
13 jury can go back into the jury room. And don't talk
14 about the case.

15 (Whereupon, the jury retired from the Courtroom.)

16 (Recess taken.)

GR fls 17

18

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23

24

25

1 65A

Blackburn - cross

2 Q Do you smoke, by the way?

3 A No.

4 Q You didn't have one of these recording devices
5 on your person; did you?

6 A The transmitter, no, I did not.

7 Q In the course of your work as an agent, are
8 photographs ever used?

9 A Yes.

10 Q Are cameras ever used?

11 A Yes.

12 Q Had you ever seen cameras used with zoom lenses?

13 A Yes.

14 Q And would a camera with a zoom lens enable some-
15 body to take a picture perhaps from a block away and get a
16 close-up?17 A I don't know what the magnification would be, but I
18 would imagine so.19 Q In this case, were there any pictures, to your
20 knowledge, of you and Julio or Edwin as you were standing
21 out in the street?

22 A To my knowledge, no.

23 Q By the way, sir, what is the purpose in searching
24 the informer before you then go out to make a buy or do
25 business with him?

26 A I don't know. Probably so. It's a strange, . . .

2 A The purpose would be so that in a subsequent court
3 proceeding, that it would be understood that the narcotics
4 did not come from the informant, that they in fact came from
5 the defendants, and that's the purpose, to make sure that the
6 -- in case the defendants come in court and say that the
7 informant brought the cocaine or whatever drugs, it's proven
8 that he didn't.

9 Q This is why you searched Mr. Bermudez; is that
10 right?

11 A That's correct.

12 Q But then you lost sight of Mr. Bermudez; did you
13 not?

14 A Yes, I did.

15 Q So you searched him and then Mr. Bermudez took
16 his car and you took your car; is that correct?

17 A That's correct.

18 Q Did you search Mr. Bermudez's car?

19 A I don't think that I did.

20 Q Did you follow Mr. Bermudez to this location?

21 A Yes, I did.

22 Q Were there any other cars ever intervening?

23 A No.

24 Q Did you stop for any red lights?

25 A I don't recall. Probably so. It's a street, yes.

2 Q But you didn't search his car; did you?

3 A I don't recall. I don't recall if I did or if I didn't.

4 Q And if you did search his car, you would have
5 made note of it in your record; wouldn't you have?

6 A I probably would have written it the way that I wrote it.

7 Q Well, you wrote that you searched Mr. Bermudez;
8 did you not?

9 A Yes.

10 Q But you didn't put down that you searched his
11 car; did you?

12 A It's not in the report, so I did not.

13 Q It's not in the report?

14 A That's correct.

15 Q Now, Mr. Bermudez was an agent of your agency;
16 is that correct? He was an informer of your agency?

17 A That's correct.

18 Q And as far as you know, the only money he was
19 paid was expenses; is that right?

20 A Correct.

21 Q Did you consider him a good citizen from this
22 community who wanted to come forward and help clean up drugs
23 and that's why he was acting as an informant?

24 A He was acting as an informant because at the time that
25 he was arrested, he decided to cooperate with the government.

A 15

Blackburn - cross

1 58A
2 That was why he was an informant at the time.

3 Q Did he decide to cooperate because he saw the
4 evil of his ways and he now wanted to see to it that cocaine
5 was no longer sold on the streets of Brooklyn?

6 A I don't know what his reasons were but he did say to me
7 that he was in one way happy that he was arrested because he
8 hadn't been involved and he was happy that now he had a clear
9 road out of it, that he didn't like being involved in cocaine.
10 He did state that to me, yes.

11 Q He told you he didn't like being involved in
12 cocaine?

13 A Yes. He was somewhat --

14 Q Did you ever say to him, Mr. Bermudez, it's
15 strange that you feel this way after having a charge for
16 selling cocaine in a Federal Government and two pending
17 charges for selling drugs in the State Government? Did you
18 ever say that to him?

19 A No, not at the time that he was arrested because at the
20 time that he was arrested I had no knowledge of Mr. Bermudez's
21 background.

22 Q You knew that Mr. Bermudez had a case pending in
23 this very building; did you not?

24 A At the time of his arrest, no, ma'am.

25 Q At the time that you were dealing with him, did

A 16

1 69A Blackburn - cross

2 you know that he had a case pending in this building?

3 A I was the agent involved in the case, yes. I knew
4 that --

5 Q You arrested him in that case; did you not?

6 A I was the undercover operative in that particular case,
7 yes.

8 Q And as a matter of fact, you know it was just
9 about a year ago today that he was a -- a little more than
10 a year ago that he was arrested; is that right?

11 A I am not familiar with the date.

12 Q Well, sir, if I were to refresh your recollection,
13 would you say that it was on the 5th of September, 1974 that
14 he was arrested for the sale of cocaine?

15 May I show you this (indicating), sir?

16 A Yes, you may.

17 Q I withdraw that.

18 That he was charged with selling cocaine on
19 the 5th of September?

20 I withdraw that.

21 MR. ROCCO: May we have that marked? Can we have
22 this exhibit marked for identification?

23 THE COURT: Yes.

24 THE CLERK: One-page document marked Defendant's
25 A for identification.

A 17

Blackburn - cross

2 Q (So marked.)

3 A Here you are, sir.

4 A I have read it.

5 Q Was Mr. Bermudez charged with the sale of cocaine
6 on September of 1974, one year ago?

7 MR. ROCCO: Your Honor, can we ask that the witness
8 describe what he just read to the Court and jury?

9 THE COURT: No.

10 Read the question, please.

11 (Record read.)

12 A (Continuing) Yes, he was.

13 Q And do you know, sir, that Mr. Bermudez pleaded
14 guilty to possession of cocaine?

15 A I didn't know if he had reached a disposition in that
16 case or not.

17 Q You didn't know that?

18 A No.

19 Q He never told you that?

20 A Maybe. I really don't recall because my -- my
21 involvement with Mr. Bermudez wasn't that extensive. Most of
22 his control, as they use -- the word "control" would rest
23 with Special Agent Carr.

24 Q And in all of the time that you were sitting
25 with him in that restaurant --

1 71A

Blackburn - cross

2 A We did not talk about his charges, no, ma'am.

3 Q Never said anything to you about it?

4 A We had -- while purchasing narcotics, you try and keep
5 the atmosphere as close to that of the actual thing as
6 possible, so we would not sit in there and talk about pending
7 criminal prosecutions.8 Q So then did you get the feeling, Mr. Blackburn,
9 that in fact this Mr. Bermudez was just really acting as a
10 good citizen? He wasn't at all concerned about this pending
11 indictment for the sale of cocaine; was he?

12 A I don't understand your question.

13 Q Did he ever ask that --

14 THE COURT: It was an argumentative question.

15 I do not think it requires an answer.

16 MRS. MOSKOWITZ: I'm sorry, your Honor..

17 I'll withdraw that.

18 Q By the way, Mr. Blackburn, do you know whether
19 Mr. Bermudez is in custody or is in jail now?

20 A No, he is not in custody.

21 Q Do you know that in fact he's awaiting sentence
22 for this charge?

23 A If he pled guilty and he hasn't been, yes, he would be.

24 Q Do you know how many times this sentence was
25 adjourned at the request of your agency?

1 72A Blackburn - cross

2 A The exact number, no.

3 Q But you do know that his sentence was adjourned
4 several times at the request of your -- of the agency that
5 you work for; is that correct?

6 A At the request of DEA, it was, yes.

7 Q You do work for DEA; do you not?

8 A Yes.

9 Q And every time the sentence is adjourned, Mr.
10 Bermudez never went back to -- never went to jail; did he?

11 A No.

12 Q He's remained at large; has he not?

13 A He's remained on bail.

14 Q Mr. Bermudez -- would you say, sir, that Mr.
15 Bermudez has a very strong reason for keeping -- for
16 bringing you in more and more people?

17 A Yes.

18 Q As he brings you in more people, he keeps
19 staying out; does he not?

20 A As long as his cooperation is such that we're able to
21 initiate, develop and prosecute narcotic violators, yes.

22 Q Did you know, sir, that there came a time last
23 April that Mr. Bermudez was scheduled to be sentenced and
24 did not appear in court? Did you know that, sir?

25 A No, I did not, ma'am.

2 Q And did you know, sir, that his sentence has
3 been adjourned until January of next year? Did you know that,
4 sir?

5 A No, ma'am, I did not know that.

6 Q And did you know, sir, that although he didn't
7 show in court on the day of sentencing, he was never put in
8 jail or his bail was not taken away from him? Do you know
9 that?

10 MR. ROCCO: Your Honor, I object.

11 THE COURT: I think the way to get information
12 before a jury is from a witness who knows, not by
13 insinuations in your own questions.

14 Please move on to something else, Mrs. Moskowitz.

15 MRS. MOSKOWITZ: I will, yes.

16 Q Now, Mr. Blackburn, you consider Cavo one of
17 the main people involved in this case; is that right?

18 A In particular transaction, yes.

19 Q And as a matter of fact, it was Cavo's car in
20 which Mr. Edwin Gonzalez drove up in; is that right?

21 A I don't know whose car.

22 Q By the way, did you take the license plate
23 number of that car down?

24 A I did not.

25 Q Did you note the license plate?

1 80A Blackburn - cross

2 come up to me and start speaking to me in Spanish. He was
3 speaking to me in English.

4 Q Did he ever speak to Mr. Bermudez in Spanish?

5 A Yes, they did speak in Spanish, but his conversations
6 to me were in English.

7 Q And when you didn't understand something, Mr.
8 Bermudez helped you out; is that right?

9 A He would tell me, yes. Then I could understand, right.

10 Q Mr. Bermudez would tell you?

11 A Yes, because I would ask him.

12 MRS. MOSKOWITZ: Thank you.

13 No further questions.

14 THE COURT: All right. Any redirect?

15 MR. ROCCO: Yes, your Honor.

16
17 REDIRECT EXAMINATION

18 BY MR. ROCCO:

19 Q Mr. Blackburn, during your conversation with
20 Julio Gonzalez, did you speak to Julio Gonzalez in English?

21 A Yes.

22 Q Can you tell the Court and the jury whether it
23 appeared that Julio Gonzalez understood what you said to him?

24 A Yes.

25 Q Did Julio Gonzalez ever use the word "cocaine"

1 81A Blackburn - redirect

2 with you?

3 A Yes.

4 Q Did Julio Gonzalez use the word "marijuana"?

5 A He -- he didn't come out with the word marijuana.

6 He used the Spanish word for marijuana. I don't know --

7 I think it was a Spanish word because I asked Chito what
8 he was talking about. Then I asked him marijuana or something
9 and he says yes.

10 Q Did --

11 A Smoke.

12 Q Did you tell Julio Gonzalez that you were there
13 to purchase cocaine from his brother?

14 A Yes.

15 Q Did Julio Gonzalez appear to understand that?

16 A Yes.

17 Q Did Julio Gonzalez after you said that to him say
18 anything to you?

19 A Yes.

20 Q What did he say to you?

21 A He told me that the cocaine -- we were talking about
22 quality. He stated that the cocaine was good because it was
23 his brother's, that it was their cocaine and it was good.

24 Q Did Mr. Bermudez have to interpret that for you?

25 A No.

2 Q Mr. Blackburn, would you tell the Court and the
3 jury why you used \$2200 in official government funds during
4 this transaction?

5 A I used it because it was the money authorized to be
6 used during the transaction.

7 Q Can I ask you why serial numbers are kept of
8 the bills?

9 A So that during the arrest phase of the investigation,
10 if money is subsequently seized, then the numbers are compared
11 to that list that we keep to see if it's in fact the money
12 used in the prior negotiations.

13 Q Does the use of that money facilitate your
14 retrieving that money in the event that after you field-tested
15 a purchase, it proves -- you obtain a negative reaction?

16 A Yes, it would assist in case there was a burn and
17 we -- we got the money back, we could make sure that we were
18 taking the right money from the person.

19 Q What do you mean by "a burn," Agent Blackburn?

20 A A burn is an expression used when you purchase a non-
21 controlled substance from a person thinking that it was a
22 controlled substance, meaning if I were to buy cocaine and I
23 bought starch, or if I went to buy cocaine and I bought Epsom
24 salts or something, that would be a burn.

25 Q If you were burned after leaving the area, would

EDITOR'S NOTE

Pages 24 were missing at time of filming. If, and
when obtained, a corrected fiche will be forwarded to you.

1 84A

A 25
Blackburn - redirect

2 then it's powdery, it's fine because you have more cut
3 adulterate than you would have cocaine.

4 However, if there are more rocks in it, that means that
5 it hasn't been cut that much and you are getting pure cocaine
6 as opposed to receiving some cut -- a lot of cuts.

7 Q Agent Blackburn, in your testimony on direct
8 examination you made reference to an individual identified to
9 you as Cavo. I asked you on your direct examination whether
10 Cavo was ever apprehended.

11 Q Do you recall whether he was ever apprehended?

12 A He was never apprehended.

13 Q Do you recall whether the Drug Enforcement
14 Administration attempted to apprehend him?

15 A Yes.

16 Q Do you recall whether you were brought back to
17 the area of 1160 Willmohr Street for purposes of identifying
18 an individual described to you as Cavo?

19 A Trying to locate, yes.

20 Q Were you able to locate him?

21 A No.

22 MR. ROCCO: Mark this for identification, please.

23 THE CLERK: Three-page document marked
24 Government's Exhibit 7 for identification.

25 (So marked.)

A 26

1 85A

Blackburn - redirect

2 Q Agent Blackburn, I show you what has been
3 marked Government's Exhibit 7 for identification. Can you
4 identify it, sir?

5 A Yes, sir. This is a report of investigation, DEA Form 6,
6 with my signature on the first page.

7 Q Would you tell t . Court what that report --
8 the subject matter of that report?

9 A This report briefly describes the activities and events
10 of the 21st of March, 1975, the purchase of the two ounces of
11 cocaine.

12 Q Agent Blackburn, in that report do you discuss
13 your meeting with Edwin Gonzalez on March 21, 1975?

14 A Yes.

15 Q Do you mention your meeting with Julio Gonzalez
16 on March 21, 1975?

17 A Yes.

18 Q Do you mention your meeting with the defendant
19 Ramon Gonzalez on March 21, 1975?

20 A Yes.

21 Q Does this document, the document that's been
22 identified as Government's Exhibit 7 for identification,
23 relate facts involved in your purchase of cocaine from Edwin?

24 MR. FLAMMIAIT: Your Honor, I'm going to object.

25 THE COURT: No. I think he has been questioned

1 36A

Blackburn - redirect

2 about it. I will overrule the objection.

3 MR. ROCCO: Mr. Reporter, would you read the
4 question back, please?

5 (Record read.)

6 A (Continuing) Yes.

7 Q Edwin Gonzalez. I'm not through. Edwin
8 Gonzalez, Ramon Gonzalez and Julio Gonzalez?

9 A Yes.

10 Q In that report do you state the amount of money
11 involved in the transaction?

12 A Yes.

13 Q And do you describe the delivery of a white
14 powdery substance to you?

15 A Yes.

16 MR. ROCCO: Your Honor, I have no further
17 questions.

18 THE COURT: All right. You can step down.

19 Is there any recross?

20 MR. FLAMHAFT: Yes.

21 RECROSS-EXAMINATION

22 BY MR. FLAMHAFT:

24 Q Agent, when you were up in the room and you say
25 you got cocaine, did you consider the deal closed?

1 100A

Carr - direct

2 Freddie Gonzalez to an individual I knew at that time to be
3 Panama, who Mr. Bermudez identified as Panama.

4 At this time this individual indicated that Freddie
5 Gonzalez, who I later came to know as Ramon Gonzalez, had
6 left the area and that he would be back in approximately a
7 half-an-hour.

8 Q What, if anything, happened after you had this
9 meeting with the individual identified to you as Panama?

10 A Following this meet, as Mr. Bermudez and I departed the area
11 in Mr. Bermudez's vehicle, we later returned to the area of
12 1160-1162 Willmohr Street, via East 98th Street, and parked
13 almost directly across the street from a small bodega or
14 grocery store located at 1162 Willmohr Street.

15 Q After you parked the car in front of this bodega,
16 what, if anything, happened?

17 A At that time I requested Mr. Bermudez to speak with
18 Edwin Gonzalez, who we had observed standing on East 98th
19 Street as we -- who I had observed standing on East 98th
20 Street, to determine the location of Freddie Gonzalez.

21 Q Agent Carr, is the individual that you just
22 referred to as Edwin Gonzalez in the courtroom today?

23 A Yes, he is.

24 Q Would you point him out for the Court and jury?

25 A He's the gentleman seated there in the blue-and-white

A 29

1 101A

Carr - direct

2 shirt with gray slacks on, black hair and moustache..

3 MR. ROCCO: Let the record indicate that the
4 witness has just identified the defendant Edwin Gonzalez.

5 THE COURT: Yes.

6 Q Did Mr. Bermudez have occasion to speak to Edwin
7 Gonzalez?

8 A Yes. As I indicated, following my instructions he spoke
9 with Edwin Gonzalez. He returned again to the vehicle -- to
10 his vehicle in which I was seated and indicated to me that
11 Mr. Edwin Gonzalez was involved in a dispute with an
12 unidentified individual, that he had informed him that I was
13 there to purchase two ounces of cocaine and that Mr. Edwin
14 Gonzalez had asked Mr. Bermudez and myself --

15 MR. FLAMHAFT: Objection.

16 THE COURT: Yes. I think you are getting pretty
17 far into hearsay. I will sustain the objection to
18 anything more on this.

19 MR. ROCCO: Fine, your Honor.

20 Q After Mr. Bermudez returned to the parked
21 vehicle, did you have occasion to leave the car?

22 A Yes. When Mr. Bermudez returned to the vehicle, we
23 left the car. We proceeded down to the small restaurant
24 which had previously been identified to you as the Soul Food
25 Restaurant.

1 1027. Carr - direct

2 At that time -- it was a fairly warm spring day. We
3 went inside and purchased a Coca Cola, a soft drink.

4 We were inside the restaurant and at that time I was
5 introduced to an individual identified to me by Mr. Bermudez
6 as Julio Gonzalez.

7 Q Agent Carr, is the individual who was introduced
8 to you by Mr. Bermudez as Julio Gonzalez in court today?

9 A Yes, he is.

10 Q Would you identify him, please?

11 A He's seated over there with the black turtleneck, with
12 the light-color check jacket on.

13 MR. ROCCO: Let the record indicate, your Honor,
14 that the witness has just identified the defendant
15 Julio Gonzalez.

16 THE COURT: Yes.

17 Q This point when you first met Julio Gonzalez,
18 what, if anything, did you say to him?

19 A When I first was introduced to Julio Gonzalez, we
20 briefly exchanged greetings. At that time Mr. Bermudez
21 indicated that I was there to purchase two ounces of cocaine
22 from Freddie Gonzalez, who was subsequently identified as
23 Ramon Gonzalez.

24 Q What, if anything, did Ramon -- did Julio
25 Gonzalez say to you after he was advised that you were there

1 107A

Carr - direct

2 store instead of going to a normal supermarket for shopping,
3 just bread and various canned goods, soap, necessities.

4 Q Agent Carr, I show you what's been marked for
5 identification as Government Exhibit 3. Can you tell the
6 Court what that is?

7 A Yes. This is a picture of the small bodega which I
8 entered. It's referred to here as the G & R Food Center.
9 At this time there is a steel gate drawn down over there,
10 aluminum, corrugated aluminum gate drawn over the front of
11 the store.

12 At the time we entered the store was open and doing
13 business.

14 Q Is that the store that you entered on April 28,
15 1975?

16 A Yes, it is.

17 Q What, if anything, happened after you entered
18 that store?

19 A Upon entering the store, Mr. Bermudez introduced me to
20 an individual Freddie Gonzalez.

21 Q Agent Carr, is that individual in the courtroom
22 today?

23 A Yes, he is.

24 Q Would you identify him, please?

25 A He's the gentleman seated right in front of me here

1 108A

Carr - direct

2 with dark hair, a blue shirt, blue-and-white shirt, with a
3 sports jacket on, maroon slacks.

4 MR. ROCCO Let the record indicate, your Honor,
5 that the witness has just identified the defendant
6 Ramon Gonzalez.

7 THE COURT: Yes.

8 Q What, if anything, happened after you were
9 introduced to Freddie Gonzalez?

10 A Following a brief conversation in which we exchanged
11 greetings in the front of the store, Ramon Gonzalez asked
12 Mr. Bermudez to step to the rear of the store with him. At
13 that time they moved to the rear of the store. I remained in
14 the front of the store.

15 Approximately one minute later, after standing there
16 and just talking with a cashier or whoever was inside the
17 store, at that time I also moved to the rear of the store.

18 Q Agent Carr, at the time that the defendant
19 Ramon Gonzalez and Mr. Bermudez walked toward the back of the
20 store, did you have them under your -- within your observa-
21 tion? Were you able to see them?

22 A Yes. The store was quite small. They walked toward
23 the rear of the store in which a refrigerator or cooler was
24 located. They were in my observation at the time, although I
25 was out of range to hear what they were saying.

A 33
1 313A Carr - direct

2 get the two cut, that it was approximately -- it was very
3 close.

4 At that time he indicated that he would leave and get
5 the cocaine for me, return with it so I could examine it.

6 Q Agent Carr, did there come a time after this
7 conversation with Edwin Gonzalez that Edwin Gonzalez left the
8 apartment?

9 A Yes. Immediately following that conversation, he left
10 the apartment and it was approximately five minutes before he
11 returned again to the apartment.

12 Q Did he return for the second time to the apartment?

13 A Pardon me?

14 Q Is it your testimony that Edwin Gonzalez returned
15 to the apartment?

16 A Yes, he did return to the apartment.

17 At the time he returned, he indicated that the cocaine
18 he had previously mentioned was not available and he asked me
19 at that time to come back later that evening, at approximately
20 6:00 p.m.

21 Q You subsequently leave the apartment?

22 A Yes.

23 Following this, Mr. Bermudez and myself left the
24 apartment, walked downstairs. We reentered Mr. Bermudez's
25 vehicle and left the area.

A 34
Carr - direct

1 114A

2 Q Mr. Carr, did you return to the area later that
3 night?

4 A Yes. I remained with Mr. Bermudez during the next three
5 hours. At approximately 5:45 we returned to the area, parked
6 across the street and remained in our vehicle for approximately
7 fifteen minutes.

8 During this time I anticipated either Mr. Edwin Gonzalez
9 or Ramon Gonzalez coming to the vehicle or having some con-
10 versation with us.

11 However, this did not occur.

12 Finally, as it -- 6:00 o'clock arrived, Mr. Bermudez
13 and I -- myself got out of the vehicle, walked in 1162
14 Willmohr Street and proceeded upstairs to the apartment which
15 we had previously seen Mr. Edwin Gonzalez in.

16 Q What, if anything, happened when you arrived at
17 the apartment?

18 A Upon arriving at the apartment, I knocked on the door.
19 The door was opened by Mr. Ramon Gonzalez and Mr. Ramon
20 Gonzalez asked us to come in.

21 At that time Mr. Bermudez and myself entered the
22 apartment. There was another individual, Chica, the small
23 kid, the boxer was in the apartment at that time.

24 Q At the time upon entering the apartment, what,
25 if anything, did Ramon Gonzalez say to you?

1 115A

Carr - direct

2 A Upon entering the apartment, a dispute followed after
3 Ramon Gonzalez indicated that the cocaine was not available.
4 He indicated that he thought I was a camerona, as he stated
5 in Spanish. This -- it is my understanding this means
6 police, cop or slang for anybody in the law enforcement field.

7 He reiterated that he did not want to do any business
8 with me because he thought that I was a policeman.

9 This is a common problem.

10 MR. FLAMHAFT: Objection.

11 MR. LEVITT: Objection.

12 THE COURT: Gentlemen, please.

13 Tell what happened. Do not go into any
14 dissertation.

15 THE WITNESS: Okay.

16 THE COURT: Objection sustained.

17 Q You were saying that you had --

18 A Due to the fact that he thought I was a policeman --

19 MR. FLAMHAFT: Objection, your Honor.

20 MR. ROCCO: Your Honor, this was stated to him.

21 THE COURT: Overruled. That is what he said.

22 Go ahead.

23 A (Continuing) Due to the fact that he thought I was a
24 policeman, he indicated he did not want to deal directly with
25 me.

1 116A

Carr - direct

2 At that time he indicated that I should give the money
3 which I intended to utilize to purchase the drugs to Mr.
4 Bermudez and that Mr. Bermudez would obtain the drugs and
5 bring them back to me.

6 At that time I argued that I opposed doing business
7 this way because if the cocaine that I received from Mr.
8 Bermudez was of a poor quality, I would not know whether Mr.
9 Bermudez had altered the cocaine or whether it had come from
10 Mr. Gonzalez in that state. I would have nobody to complain
11 to regarding the cocaine I had purchased.

12 Following this Mr. Bermudez -- Mr. Bermudez and myself
13 argued as to whether I could purchase the cocaine. A very
14 heated dispute followed in which I was again called a camaron.
15

I said "Okay." At that point I said "Forget it." I
16 turned to Mr. Bermudez and indicated that we could go to the
17 other source, a fictitious source and obtain the cocaine, that
18 we didn't need this hassle or the problems involving the
19 purchase of the cocaine.

20 THE COURT: All right. We will take our noon
21 recess now and I have something on at 2:00 o'clock, so
22 we will resume at 2:15.

23 Meanwhile, ladies and gentlemen, do not talk about
24 the case among yourselves or with anyone else and do not
25 talk at all to any of the people in the courtroom.

1 although my client is in custody, I've had contact
2 with them in our joint conferences. I'm sure they'll
3 be here, even though they're late.

4 THE COURT: Let me make one statement on the
5 record.

6 Mr. Rocco brought Mr. Bermudez up to my
7 chambers last evening and I spoke to him and had the
8 stenographer take down what we said with Mr. Boyne
9 acting as interpreter, and he said he did not want
10 to talk with the defendants or their counsel unless
11 he had to.

12 I explained to him that the Government had
13 no right to forbid him to talk to them, but he
14 could be called by the defendants if he was not called
15 by the Government, but he was under no obligation to
16 talk to anybody. That's where the matter rests.

17 MR. ROCCO: Just for the record, I spoke to
18 Messrs. Flamhaft and Mrs. Moskowitz after you had
19 spoken to Mr. Bermudez and after consulting with
20 Ms. Seltzer, Legal Aid associate, I made representa-
21 tions to counsel for the defendants that I would
22 make the defendant available today for purposes
23 of subpoenaing him. I provided defense counsel--

24 THE COURT: Do you intend to call him?

25 MR. ROCCO: No, the Government does not intend

1 to call him. I was told yesterday afternoon, your
2 Honor, by Mrs. Moskowitz she's been able to locate
3 Mr. Bermudez, although I understand the address
4 I gave--

5 MS. MOSKOWITZ: No, located the address, but
6 unable to find him, and I know that he's avoiding.
7 I can understand it. If I was in his position
8 I would do the same. We want him to testify, and
9 we're prepared to serve him with a subpoena, and
10 Mr. Rocco will make him available for at least that
11 purpose.

12 MR. ROCCO: Pursuant to agreement with Ms.
13 Seltzer, your Honor--

14 THE COURT: I pointed out to him that he
15 might have a right to counsel if there was any
16 question of self-incrimination. He said Ms. Seltzer
17 had represented him. I was going to have her here
18 today. I have conferred with her already.

19 What did you find out about Edwin, Mr. Flam-
20 haft?

21 MR. FLAMHAFT: I found out I woke him up, your
22 Honor.

23 THE COURT: Is he coming?

24 MR. FLAMHAFT: Yes.

25 THE COURT: From where?

He indicated that he did, and that he further went on to state that he resided in Apartment 11 of that building.

Q Was that surveillance report that you now refer to, was that obtained through interrogation of Ramon Gonzalez?

A No, the surveillance report was not obtained through interrogation.

MR. LEVITT: That's all.

THE COURT: Any other questions of Mr. Carr?

MR. ROCCO: I have no further questions.

THE COURT: You're excused.

Thank you.

(Witness excused)

THE COURT: Anything else for the Government?

MR. ROCCO: No, the Government has no further witnesses.

THE COURT: Does Mr. Flamhaft have any evidence to produce?

MR. FLAMHAFT: The defendant Edwin Gonzalez rests.

MR. LEVITT: Ramon Gonzalez rests.

MS. MOSKOWITZ: I rest.

THE COURT: The Court of Appeals said the

1
2 warning, once given, can carry over for a certain
3 length of time. I think the FBI are a little more
4 careful than the DEA to give warnings every time
5 they have a significant interview. I don't think
6 that's a defect.

7 Mr. Flamhaft, have you anything to say on
8 the subject?

9 MR. FLAMHAFT: No, sir.

10 THE COURT: Mr. Levitt?

11 MR. LEVITT: No, sir.

12 THE COURT: On my understanding of the law,
13 I'll deny the motion to suppress and with respect
14 to the Bruton problem which is not quite as acute
15 because I don't find the statements are exactly
16 what is set forth in this August 7th report, the
17 latest case in the Court of Appeals has been brought
18 to my attention by my law clerk, is U.S. ex rel
19 Stanridge v. Selker, 514 F.2d 45, earlier this year,
20 where one of my colleagues was reversed for holding
21 that interlocking confessions were inadmissible
22 because of differences that he thought was signifi-
23 cant and the Court of Appeals thought was not.

24 I think, subject to cautionary instructions,
25 that they will be admissible.

(Twelve jurors and two alternates were
duly impaneled and sworn.)

THE COURT: Don't sit down. I'll ask
Mr. Schwartz to take you into the jury room so
you'll know w' e to spend your time when you're
not in court. Take your things with you and we'll
take a five-minute recess before we start.

(The jury leaves the courtroom.)

THE COURT: The rest of the jury panel is
excused, and my clerk will take your cards to you.

(Prospective jurors excused.)

(Recess)

THE COURT: Do I gather you distributed
some 3500 material?

MR. ROCCO: Your Honor, this morning
I distributed all the 3500 material that I had,
including in addition some statements that are
technically not 3500 material. I surrendered
three prior statements by Mr. Bermudez, though
I don't intend to call him as a witness.

I also provided counsel with copies of a
letter addressed to Mr. Trager, and I'm handing a
copy up to the Court now. I showed you--

THE COURT: What you described this morning

A 42

1 with respect to Mr. Bermudez. Was he served with
2 a subpoena this morning?

3 MR. ROCCO: No, he hasn't been, your Honor.

4 Mr. Bermudez is still available in my office.

5 Counsel has not subpoenaed him as of yet.

6 MR. FLAMHAFT: I had this morning, as I
7 indicated this morning, your Honor, I had a State
8 Court subpoena which I have prepared and the Clerk
9 of the Court suggested it would probably be better
10 if I had a federal subpoena.

11 THE COURT: Yes.

12 MR. FLAMHAFT: We have made arrangements
13 subject to your permission to have it here this
14 afternoon or a little later.

15 THE COURT: I suppose you won't reach him
16 before next Monday now at the rate we're going.

17 MR. FLAMHAFT: Probably.

18 THE COURT: Bring in the jury-- Wait a
19 minute.

20 MR. ROCCO: Before the jury is brought in,
21 I have one matter, I prepared jury aids and I dis-
22 tributed to counsel this morning. They're diagrams
23 of street locations in the East New York section
24 of Brooklyn. They are not, obviously, not to scale.
25 They don't intend to be true and accurate representa-

to return a verdict of guilty as charged as against all three defendants. Thank you.

THE COURT: Mr. Flamhaft, do you want to say anything?

MR. FLAMHAFT: Yes, your Honor.

Judge Judd, Mr. Caden, Mr. Rocco, Madam Foreman, Ladies and Gentlemen of the Jury:

As I stand before you now, in my opening statement to this jury, I would just like to say that knowing Judge Judd as I do, and knowing Mr. Rocco as I do, I'm quite confident-- in fact, I'm sure the defendants will receive a fair trial and that, ladies and gentlemen, is the simple reason why we're here in this pine-paneled majestic room, to search for the truth, to find out whether or not the Government has taken it upon themselves, through the vehicle of an indictment, to charge the defendants with a serious crime of selling drugs.

The Government has an obligation to prove guilt beyond a reasonable doubt. The defendants need not prove anything.

In this case, as Mr. Rocco has alluded to, he's indicated that you're going to hear, going to see a parade of witnesses to the witness stand.

1
2 Make : istake about it, that the archi-
3 tectural design of this building is in such a way
4 that these witnesses are right next to this jury
5 box, so that you people can determine, can observe,
6 can scrutinize and analyze the people that take
7 the witness stand in a courtroom.

8 I think that you will find that about nine-
9 tenths of the witnesses that take the stand in this
10 case will be icing on the cake, or, in other words,
11 superfluous, not necessary.

12 It will boil down to who was there at the
13 time of the so-called alleged sale and it will boil
14 down to and will point up to the fact there is one
15 agent, one cop, who says that something happened.
16 You'd have to believe and he must dovetail and he
17 must be consistent with the person that the
18 defendant intends to call, a gentleman by the name
19 of Enrique Bermudez.

20 We intend to call him because he was there
21 at the time of these sales. Let's wait and see
22 what Mr. Bermudez has to say. Let's wait and see
23 whether or not he's consistent and he jibes and
24 he says the same thing that the agent tells you
25 happened on a certain day, a certain place, and a
certain time.

My defendant, and I can only speak for my defendant, will take the witness stand. The Judge has indicated, I'm sure he will tell you, that he need not, but he will face up to cross-examination, face up to questioning, will not cower behind the defense table, and explain to you his background, his so-called sales, the so-called transactions, the so-called negotiations that the Government has said they have done.

You'll find my man has used cocaine and you will find this is not the first time he has used cocaine, that he's not a virgin, not a neophyte to drugs, and he knows what the word "drug" means. And he knows that cocaine means.

Then you are then to determine, after hearing both the prosecution, both the defense, whether or not the Government has sustained the burden of proving guilt beyond a reasonable doubt.

I trust, I'm confident, that at the end of the entire case you will find that the Government has failed to sustain the burden that is necessary in order to convict somebody of a sale.

The Government has gone to great length to come back with an indictment. The Government has

an obligation, responsibility, to prove each and every charge as it stands now before my client.

Thank you.

THE COURT: Mr. Levitt, you may speak.

MR. LEVITT: Thank you.

Your Honor, Mr. Rocco, ladies and gentlemen of the jury:

I shall be very brief in that Mr. Flamhaft has covered the usual for the defense, just to say I represent Ramon Gonzalez, a brother, and it is his contention that he never dealt in the sale of narcotics; that he didn't commit any acts in violation of the laws of the United States or of any other state.

Yes, there is a criminal in this case, and that criminal is the man referred to as the informer.

I have nothing further to say. Thank you.

THE COURT. Ms. Moskowitz.

MS. MOSKOWITZ: Your Honor, Mr. Rocco, Mr. Carr, Mr. Caden, Madam, Ladies and Gentlemen:

Good afternoon. I will be very brief, for, as his Honor has indicated to you, the only person in this courtroom who has a burden to prove anything

to you is Mr. Rocco, and as a matter of fact, by law, Mr. Rocco must come here and tell you what he intends to prove in this case.

I, on behalf of my client, Julio Gonzalez, the man seated at the far end of the table next to the interpreter, have no burden whatsoever. At this moment, Mr. Gonzalez is presumed innocent, and throughout the course of his trial, as Judge Judd will tell you, he is presumed innocent. Only if the Government rebuts his presumption and establishes proof beyond a reasonable doubt may you then find him guilty.

I'm going to ask you to listen to the evidence as it comes forth most carefully. Please, throughout the course of the trial, to keep, if possible, your minds compartmentalized and listen to the evidence as it affects my client, Julio Gonzalez.

Mr. Rocco has stated this is a very simple case, and he's lumped together three brothers. It may be simple to Mr. Rocco, but I trust it will not be simple to you and it is not a simple matter for Mr. Gonzalez.

I ask you to listen to the evidence and say

to yourself as you hear the testimony, "What are they saying about Julio Gonzalez?"

I submit to you, as you listen to this testimony, you will be convinced not by the proof in this case, but by the overwhelming lack of evidence against Julio Gonzalez and you will come to a verdict of not guilty. Thank you.

THE COURT: You may proceed with your witness, Mr. Rocco.

MR. ROCCO: Thank you.

The United States calls Mr. Samuel Blackburn.

S A M U E L B L A C K B U R N , called as a witness,
having been duly sworn by the Clerk of the Court,
testified as follows:

THE CLERK: Give us your name.

THE WITNESS: Sam Blackburn, B-l-a-c-k-b-u-r-n.

DIRECT EXAMINATION

BY MR. ROCCO:

Q Mr. Blackburn, would you tell the Court whom you're employed by.

A I'm employed by the Drug Enforcement Administration, United States Department of Justice.

Q Mr. Blackburn, will you tell the Court how

long you've been employed with the Drug Enforcement Administration?

A I've been employed as a special agent for about a year and a half.

Q Mr. Blackburn, have you had prior law enforcement experience?

A Yes, I have.

Q What was that, sir?

A For five and a half years I was assigned to the Metropolitan Police Department, Washington, D.C. Narcotics Squad. I was a sergeant.

Q Mr. Blackburn, can you describe for the Court and jury, briefly, what your duties as a special agent of the Drug Enforcement Administration encompass.

A My duties require that I conduct criminal investigations, sometimes assuming an undercover role.

Q Mr. Blackburn, were you employed as a special agent with the Drug Enforcement Administration on March 21, 1975?

A Yes, sir, I was.

Q Were you on duty that day?

A Yes, sir.

Q Mr. Blackburn, directing your attention to March 21, 1975, did you have occasion to be in the vicinity

of Willmohr and East 98th Streets in Brooklyn, New York,
while on duty that day?

A Yes, sir.

Q Mr. Blackburn, can you tell the Court and
jury where Willmohr Street is located in Brooklyn.

A It's in the East New York section of Brooklyn.

Q Mr. Blackburn, can you tell the Court your
purpose in going to Willmohr Street and East 98th Street
on March 21, 1975.

A Earlier that day, March 21, I received a
telephone call from Enrico Bermudez, who informed me--

MS. MOSKOWITZ: Objection.

THE COURT: Overruled. Go ahead.

A I received a phone call from Enrico Bermudez,
who advised me that he had made arrangements with the
person formally introduced to me as Edwin Gonzalez, for
me to purchase two ounces of cocaine from Edwin Gonzalez.

THE COURT: I'm allowing that, ladies and
gentlemen, as the background for the afternoon,
what Mr. Bermudez says not on the stand is not
offered for the truth of what he said, but to ex-
plain what Mr. Blackburn did later on.

Q Mr. Blackburn, would you tell the Court and
jury whether you had occasion on the 21st of March, 1975,

1 2 to go to a restaurant located on Willmohr Street.

3 4 MR. FLAMMIAFT: Objection, your Honor, leading.

5 6 THE COURT: Overruled.

7 8 A Yes, I did.

9 10 Q Mr. Blackburn, do you recall the name of the
11 12 restaurant?

13 14 A The name of it I believe is Soul Food Restau-
15 16 rant. At the time there was no sign printed on the window.
17 18 People in the neighborhood referred to it as the Soul Food
19 20 Restaurant.

21 22 Q Mr. Blackburn, do you recall where on Willmohr
23 24 Street the Soul Food Restaurant that you referred to is
25 located?

1 2 A 1167 Willmohr.

3 4 THE CLERK: Four photographs marked Govern-
5 6 ment's Exhibit 1 through 4 for identification.

7 8 Q I show you Government Exhibit 1 marked for
9 10 identification. Can you identify it?

11 12 A Yes, sir, I can.

13 14 Q What is it?

15 16 A This is a photograph of the restaurant I call
17 18 the Soul Food Restaurant, located 1167 Willmohr Street.

19 20 Q Is that photograph of the restaurant you
21 22 called the Soul Food Restaurant a true and accurate repre-

A 52

Blackburn-direct

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sentation of the Soul Food Restaurant on March 21, 1975?

A Yes.

MR. ROCCO: I move that be admitted into evidence at this time.

THE COURT: I'll receive it subject to connection and to any objection.

Mark it.

(Said photographs handed to defense counsel.)

THE CLERK: Government Exhibit 1 marked in evidence.

(So marked)

Q Mr. Blackburn, after going to the Soul Food Restaurant on March 21, 1975, did you have occasion to meet with an individual introduced to you as Edwin Gonzalez?

A Yes, I did.

Q Do you recall the time of day that you met with the individual identified to you as Edwin Gonzalez?

A Approximately six o'clock p.m.

Q Had you ever met that individual before?

A Yes, I have.

Q Can you tell or will you tell the Court and jury where that meeting took place and when.

A I met with Mr. Edwin Gonzalez on the 27th of January, 1975, at the corner of East 98th and Willmohr.

A 53

Blackburn-direct

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1 I was introduced to Mr. Gonzalez by Enrico Blackburn.

2 I had a conversation with Mr. Edwin Gonzalez in reference
3 to my purchasing two ounces of cocaine.

4 At that time I was unable to purchase the
5 cocaine from Mr. Edwin Gonzalez because he stated that his
6 source of supply for cocaine was not home.

7 Q Agent Blackburn, is that individual introduced
8 to you as Edwin Gonzalez in the courtroom today?

9 A Yes, he is.

10 Q Would you identify him, please.

11 A The gentleman w ~~th~~ the green suit with his
12 head down (indicating).

13 MR. ROCCO: Your Honor, if it please the
14 Court, may the record indicate that Special Agent
15 Blackburn has pointed to the defendant Edwin
16 Gonzalez.

17 THE COURT: In the absence of any dispute,
18 I'll accept the fact.

19 Q Special Agent Blackburn, do you recall where
20 you first encountered Edwin Gonzalez on March 21, 1975?

21 A Yes, sir. It was inside the Soul Food
22 Restaurant.

23 Q Were you alone at the time?

24 A I was alone, yes, sir.

A 54

Blackburn-direct

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2 Q At the time that you encountered the defendant
3 Edwin Gonzalez, was he alone?

4 A No, he was not.

5 Q Who was he with?

6 A A person known to me as Enrico Bermudez.

7 Q Is that the same individual who introduced you
8 to Mr. Gonzalez on the 27th of January, 1975?

9 A Yes, sir.

10 Q Had you met with Mr. Bermudez earlier that
11 day?

12 A Yes, sir, I had.

13 Q At approximately what time; do you recall?

14 A Around five o'clock p.m.

15 Q Do you recall where you met with Mr. Bermudez
16 that day?

17 A At the Galaxy Restaurant, located at
18 Pennsylvania and Linden Boulevard in Brooklyn.

19 Q Agent Blackburn, what was the purpose of
20 your meeting Mr. Bermudez that day?

21 A The purpose of my meeting with Mr. Bermudez
22 was, first, to finalize plans for my purchase of cocaine
23 from Mr. Gonzalez and to conduct a search of Mr. Bermudez's
24 person to make sure that he didn't have any narcotics or
25 other contraband in his possession.

1 Q Did you in fact search Mr. Bermudez?

2 A Yes, I did.

3 Q What was the result of that search?

4 A The search was negative.

5 Q By "negative," do you mean--

6 A He was not in possession of contraband nor
7 did he have any narcotics.

8 Q Agent Blackburn, did Mr. Bermudez accompany
9 you to the vicinity of Willmohr and East 98th Street on
10 March 21, 1975?

11 A No, sir.

12 Q Did you meet with him there?

13 A I did.

14 Q Who arrived first, do you recall?

15 A Mr. Bermudez arrived first in his personal
16 vehicle. I arrived in a Government car-- I followed
17 Mr. Bermudez until approximately one block of the area.
18 Then he turned in and went in. I made the block and came
19 in approximately two to three minutes later.

20 Q Mr. Blackburn, what was the purpose of your
21 meeting with the defendant Edwin Gonzalez on March 21, 1975?

22 A To purchase two ounces of cocaine.

23 Q At the time that you first encountered
24 Mr. Gonzalez, what you describe as the Soul Food Restaurant,

1 do you say you spoke to him?

2 A Yes.

3 Will you tell the Court what you said.

4 A When I met Mr. Gonzalez inside the restaurant
5 I asked him-- First we exchanged greetings. Then I asked
6 him if he had the cocaine I came after, or the coke.

7 Q What did Mr. Gonzalez say to you?

8 A He advised me that he didn't have the coke
9 with him then, that all he had to do was -- all he needed
10 to do was call his man and he could get the cocaine for me.
11 After that brief exchange, Mr. Edwin Gonzalez walked to
12 bank of three telephones, used the middle telephone, dialed
13 a number, and appeared to engage in conversation for ap-
14 proximately two minutes.

15 Then he returned to me and stated that he
16 could get the coke that I wanted, that he would have it for
17 me in a half hour, that he had spoken to his man.

18 Q Did all this conversation following what
19 appeared to be a phone call by Mr. Gonzalez, take place in
20 the Soul Food Restaurant?

21 A Yes, it did.

22 Q Did there come a time after Mr. Gonzalez,
23 Mr. Edwin Gonzalez, placed that phone call that he left
24 the restaurant?

1 A Yes.

2 Q How long after these discussions did Mr. Gon-
3 zalez leave? Did he leave immediately?

4 A It was almost immediately after the conver-
5 sation.

6 Q Did Mr. Gonzalez leave the restaurant alone
7 when he left?

8 A No, he did not.

9 Q Who did he leave with?

10 A Mr. Enrique Bermudez.

11 Q After Mr. Bermudez and Mr. Gonzalez left the
12 restaurant, did anything else happen at the restaurant?

13 A Mr. Bermudez returned to the restaurant a
14 short time later.

15 Q What do you mean by "a short time"? Do you
16 recall how long--

17 A Within minutes.

18 Q After Mr. Bermudez left the restaurant with
19 Mr. Gonzalez and returned, did there come a time that you
20 lost sight of Mr. Bermudez or did Mr. Bermudez continue or
21 remain in your sight?

22 A From that point on I didn't lose sight of
23 Mr. Bermudez, no.

24 Q Did there come a time that you and Mr.

Bermudez left the restaurant?

A Yes.

Q Mr. Blackburn, just stepping back, what were you doing in the restaurant while you were waiting to meet Mr. Gonzalez, while you were waiting for Mr. Gonzalez to return?

A I had a meal and a soda and I think Mr. Bermudez had a soda, also, strawberry soda.

Q After you left the restaurant with Mr. Bermudez, what if anything did the two of you do?

A After we left the restaurant, we stood in the doorway, in front of the door to the restaurant, at the corner.

Q Is that doorway on East 98th Street or is it on Willmohr Street?

A I would say--

MS. MOSKOWITZ: I'm objecting to the agent reading--

Mr. ROCCO: He's looking at photographs marked in evidence.

THE COURT: You can see anything he's looking at.

A I would say it's more on East 98th than on Willmohr, the doorway to the restaurant.

2 Q Is it directly at the intersection?

3 A Yes, it is.

4 Q While standing in front of the restaurant with
5 Mr. Bermudez, did you have occasion to meet anyone?

6 A Yes, I did.

7 Q Who did you meet?

8 A I met a person introduced to me as Chickie.
9 Chickie and I had a conversation. I met Chickie when I
10 was there on the 27th, on my initial meeting with Mr. Gonzalez
11 and it was just a continuation of a conversation that I
12 had with him before, because Chickie told me that he had
13 been a boxer and I was asking him questions about his boxing
14 abilities, stuff like that, general conversation.

15 Q After you met with Chickie, did you meet
16 with anyone else?

17 A Yes, I did.

18 Q Can you tell the Court and jury who that
19 person was.

20 A Mr. Julio Gonzalez. I met with him. He
21 approached me and had a conversation with me while I was
22 standing in the doorway.

23 Q I take it from your testimony that that
24 individual is in the courtroom today.

25 A Yes, he is.

A 60

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Q. Will you identify him for me, please.

A. The gentleman with the black turtleneck and
the light coat.

MR. ROCCO: Might the record indicate

Special Agent Blackburn has just identified Julio
Gonzalez.

THE COURT: Yes.

Q. Mr. Blackburn, where did you first meet
Julio Gonzalez?

A. In the doorway of the restaurant.

Q. Do you recall who introduced you to the
defendant Julio Gonzalez?

A. Yes, Mr. Enrique Bermudez.

Q. At the time that you were first introduced
to Mr. Julio Gonzalez, did he say anything to you?

A. Yes, he did.

Q. Do you recall what he said?

A. Yes, after we were introduced, we exchanged
greetings and we talked, first in general conversation and
then we talked about cocaine. Mr. Julio Gonzalez informed
me that his cocaine at the time -- when he referred to
"his," he was speaking of his brother's --

MS. MOSKOWITZ: Objection.

THE COURT: That's the subject of cross-

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examination. The jury doesn't have to believe it.

You can persuade them it's not so.

Q Continue, please.

A He mentioned his cocaine was the best in the neighborhood and that it was good cocaine.

Q Did anything else happen while you were standing in front of the restaurant with Mr. Bermudez and with the defendant Julio Gonzalez?

A Did anything else happen?

Q Yes. Did there come a time--

A He left a short t' e, after talking for about twenty-five minutes he left.

Q Can you recollect approximately what time of day this was?

A I guess it must have been around 6:30, 6:25, 6:30.

Q This was on March 21, 1975. Do you recall whether it was light or still light?

A Yes, it was. It wasn't completely dark, dusk.

Q Did you notice where Julio Gonzalez went after he left you?

A He went-- He crossed the street, went in the direction of 1160-62 Willmohr, which address I'm not sure, which place.

2 THE CLERK: Two pages of diagrams marked

3 Government Exhibit 5 for identification.

4 (So marked)

5 Q Special Agent Blackburn, I show you what appears
6 to be a map. Can you describe it.

7 A Yes, this is the area of East 98th, Willmohr,
8 Newport and Rockaway in East New York.

9 Q Would you say it constitutes a fair representa-
10 tion of those streets and the intersection?

11 A Yes.

12 MR. ROCCO: On the basis of that, I would
13 like to use these as jury aids, to have Mr. Black-
14 burn identify the respective sites there.

15 THE COURT: Does anyone want to have a voir
16 dire on it first?

17 MR. LEVITT: Yes, sir. By all means.

18 THE COURT: Go ahead.

19 VOIR DIRE EXAMINATION

20 BY MR. LEVITT:

21 Q I just want to know one question, Mr. Black-
22 burn. How long have you worked in this neighborhood?

23 A I've been there only two or three times.

24 Q Yet, being there only two or three times,
25 you are now telling us that you can identify a diagram which

is haphazardly drawn and tell us that represents a fair identification or fair facsimile of that neighborhood?

A The question that I understood is that this drawing that I had in front of me is almost the same as it appeared on the map. Prior to going to the area, I looked at the map of the area because I was not familiar with East 98th, Rockaway, Willmohr or Newport. I did look at the map. This is similar to the way it's drawn on the map.

Q What map was that?

A This is one of the aids that I got from Special Agent Carr. I don't know the brand name or title of the map. It's just the borough map of New York, you buy in any book store.

Q Other than this map, I mean-- you had -- if you hadn't been in this neighborhood, I mean a great length of time, am I correct in that?

A Yes, sir, you're correct.

Q Yet-- When was the last time that you saw this map of Special Agent Carr's?

A Which may have you reference to?

Q The map that you referred to that you claimed that you had examined that Special Agent Carr had.

A The last time I saw the map was probably

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2 just before the deal, I guess.

3 Q Just before the deal?

4 A Yes.

5 Q That was more than six months ago; is that
6 correct?

7 A Yes, once you look at a map, maps never
8 change--

9 THE COURT: Just answer the question.

10 THE WITNESS: Yes.

11 Q I just asked you, that was more than six months
12 ago?

13 A Yes, it was, sir.

14 Q Is that correct?

15 A That's correct.

16 MR. LEVITT: Very well.

17 THE COURT: I think it's sufficiently iden-
18 tified so that the jury can look at it during
19 the questioning.

20 MR. ROCCO: My secretary stapled the two maps
21 together. I'm in the process of disassembling these
22 maps. I'm sorry.

23 BY MR. ROCCO:

24 Agent Blackburn, in Mr. Levitt's voir dire, he
25 asked you how many times you had occasion to see a map

2 of -- apparently, that this diagram is based upon.

3 Am I right in recollecting you have seen
4 the man on one occasion?

5 A No, I have seen the map more than one time,
6 but to the best that I can remember, the last time that
7 was probably the night of the deal.

8 Q Agent Blackburn, during the course of your
9 meetings with Edwin Gonzalez, did you have occasion to go
10 to drive along East 98th Street, to drive along Newport
11 Street, to drive along Willmohr Street?

12 A Yes.

13 Q Did you drive along those streets on more
14 than one occasion?

15 A Yes.

16 Q Are you confident that this is a fair, a
17 reasonably accurate plot of that area of Brooklyn?

A Reasonably, yes.

Q Can you identify what appears to be at the intersection of East 98th Street and Willmohr Street?

21 A That would be where the restaurant would be
22 located.

Q Can you identify what appears to be one or
two buildings located diagonally across the street on
Willmohr Street?

2 A That would be the approximate location of
3 1160 and 1162 Willmohr.

4 Q My question was after the defendant, Julio
5 Gonzalez, left you, did you see or notice where he went?

6 A In the direction of those two buildings.

7 Q So it's your testimony that he crossed the
8 street and entered one--

9 MS. MOSKOWITZ: I'm objecting to the testimony
10 of Mr. Rocco.

11 THE COURT: No, Mr. Rocco doesn't testify.

12 Mr. Rocco is asking a question.

13 Q Go ahead.

14 A Agent Blackburn, answer my question.

15 Q Would you ask the question again, please.

16 A Yes.

17 Q Julio left you and Mr. Bermudez. Did you
18 notice where he went?

19 A Yes, sir, in the direction of the two
20 buildings, 1160 and 1162 Willmohr.

21 Q The way those buildings are situated on that
22 rough diagram you have, would that mean that Mr. Gonzalez
23 crossed the street diagonally to 1160 or 1162?

24 A Yes.

25 Q Do you recall whether he did cross the street

2 diagonally?

3 A Yes, he did.

4 Q Thank you.

5 At the point that Mr. Julio Gonzalez left
6 you. where were you standing?

7 A At the corner of East 98th and Willmohr, in
8 front of the restaurant, in front of the door of the
9 restaurant, on the steps, as a matter of fact.

10 Q On this rough diagram, it would be where
11 East 98th Street and Willmohr Street intersect?

12 THE COURT: I think that's what he said,

13 A Yes.

14 Q Agent Blackburn, did there come a time on
15 March 21, 1975, that you had occasion to see the defendant
16 Edwin Gonzalez again?

17 A Yes.

18 Q Do you recall how long after your initial
19 meeting with him that was?

20 A Approximately an hour.

21 Q Do you recall where you were standing at the
22 time that you saw or met him for a second time?

23 A I was at the intersection. I was still
24 in the vicinity of the restaurant when I saw him the
25 second time.

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EDITOR'S NOTE

Pages A6B were missing at time of filming. If, and when obtained, a corrected fiche will be forwarded to you.

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2 Court and jury what he was doing?

3 A The second time that I observed Mr. Gonzalez
4 he was stepping out of the passenger side of a Cadillac.

5 Q Can you describe that Cadillac?

6 A It was a Cadillac convertible, purple in
7 color.

8 Q Do you recall where that Cadillac was located?

9 A Yes, it was in the-- It was close to the
10 intersection of Rockaway and Willmohr, facing Newport.11 Q Agent Blackburn, do you recall what the
12 individual identified to you as Cavo looked like?13 A Puerto Rican, male, approximately five-eight,
14 150 pounds, black hair, black straight hair.15 Q You testified that you saw the defendant
16 Edwin Gonzalez as he was leaving a car?

17 A Yes.

18 Q Is that so?

19 After leaving the car, what did the defendant
20 Edwin Gonzalez do, if anything?21 A Mr. Gonzalez looked in the direction of the
22 restaurant where Mr. Bermudez and I were located and motioned
23 in that direction is if --motioned for us.

24 Q Can you describe how he motioned?

25 A It was a gesture, you know, the arm (indicating).

2 Q He raised his arm--

3 A And pulled it toward him.

4 Q Raised his arm and pulled it toward him?

5 A Yes.

6 Q What if anything did you do at that point?

7 A At that point Mr. Bermudez and I crossed the
8 street -- well, we observed Mr. Gonzalez and the person
9 later identified to me as Cavo enter, either 1160 or 1162
10 Willmohr. The doors were really close together and it's
11 really kind of hard to see exactly which door you went into,
12 but he entered one of these two buildings, so Mr. Bermudez
13 and I crossed the street and we were about to enter 1160
14 when there was some kids in the neighborhood, down by the
15 door, and they stated that -- We asked them if they had
16 gone into 1160 or the building that would be on the left,
17 and they said no, they had gone into the building on the
18 right, which I later found to be 1162. At first originally
19 I thought it was 1160, but it was 1162.

20 Q Special Agent Blackburn, I show you a photo-
21 graph that's been marked Government Exhibit 2 for identifi-
22 cation. Can you identify it (handing to witness)?

23 A Yes, I can.

24 Q Will you identify it for the Court and jury.

25 A This is a photograph taken of the doorways of

1 1160 and 1162 Willmohr.

2 Q Does that photograph represent a true-- Does
3 that photograph represent a true and accurate representation
4 of 1160-1162 Willmohr Street?

5 A Yes.

6 Q Special Agent Blackburn, I show you what's
7 been marked Government Exhibit 3 for identification (handing
8 to witness) and ask you if that constitutes a true and
9 accurate representation of 1160-1162 Willmohr Street as it
10 appeared on March 21, 1975.

11 A Yes, except in March the Food Center -- the
12 partition was up and the store was open. The neighborhood
13 is basically the same.

14 Q Special Agent Blackburn, can you tell the
15 Court and jury whether that actually is approximately the
16 angle that you would have been looking at 1160-1162 from?

17 A Yes, if I were standing in front of Soul Food
18 Restaurant where I was when I first talked to Mr. Julio
19 Gonzalez on the 27th-- on the 21, I'm sorry.

20 Q Can you describe the doorway you and Mr. Ber-
21 mudez entered on that evening?

22 A Yes, we entered the doorway, looking at the
23 photograph it would be to the left of the light.

24 Q Does anything appear on that door?

2 A Yes, a square, a pane of glass, a little
3 window.

4 Q Looking at Government Exhibit 2 for identi-
5 fication, can you describe what appears on that doorway?

6 A Yes, there's a window square, there's also a
7 numeral 2 and there appears to be a sign at the lower
8 portion of the door.

9 Q Can you tell, or will you tell the Court and
10 jury what happened after you entered the doorway with the
11 numeral 2 appearing on it.

12 A After being directed by the kids that he had
13 entered 1162-- Mr. Bermudez and I entered. I didn't know
14 exactly where to go. I was just about to ask Mr. Bermudez,
15 "Where to?" when I observed Mr. Julio Gonzalez again,
16 walking in the hallway towards me.

17 At that time he directed us to follow him.
18 Mr. Bermudez and I followed Mr. Julio Gonzalez upstairs
19 to an apartment in the rear of 1162 Willmohr.

20 Q Mr. Blackburn, at the time that you met
21 Julio Gonzalez in the hallway of 1162 Willmohr Street, was
22 he alone?

23 A Yes, he was.

24 Q Did Julio Gonzalez say anything to either
25 you or Mr. Bermudez at that point?

2 A He instructed us to follow him.

3 Q It's your testimony that you did follow him?

4 A Yes, I did-- we did.

5 Q Where did you follow him to?

6 A Up the stairs to an apartment in the rear
7 of the building.

8 Q Do you recall what floor you arrived at?

9 A Second floor.

10 Q Do you recall whether the hallway was lighted?

11 A To the best that I can remember, it wasn't
12 lighted, the hallway.

13 Q Was there a landing at the second floor?

14 A Yes.

15 Q Was that landing lighted?

16 A If it was lighted it was very poor lighting,
17 again.

18 Q Did you follow Mr. Gonzalez into an apartment?

19 A Yes, I did.

20 Q Was that apartment to the rear?

21 A Yes. And to the left as you come up the
22 stairs.

23 Q What if anything did you see upon entering
24 the apartment?

25 A Well, after we got up to the top of the stairs,

2 Mr. Julio Gonzalez opened the door and we entered.

3 Once we got into the apartment, it's like
4 you stepped into the kitchen, I observed Mr. Edwin Gonzalez,
5 Mr. Julio Gonzales, Mr. Fred -- Ramon Gonzalez, and a person
6 that was introduced to me, identified to me as C'vo, inside
7 the kitchen.

8 Q Agent Blackburn, can you describe the kitchen.

9 A To the best that I can remember, when you
10 walk into the kitchen, the sinks are, I think, are on the
11 left. The stove and refrigerator, I believe are more or
12 less to the front and to the left. That's the best I would
13 remember.

14 Q Do you recall whether the kitchen was well
15 lighted?

16 A Yes, it was.

17 Q Agent Blackburn, after entering the kitchen
18 what if anything happened?

19 A I asked Mr. Edwin Gonzalez, again, if he had
20 the coke. He said that he did have the coke and at that
21 time he indicated a motion, told us to follow him into the
22 bedroom, which would be to the left side of the kitchen.

23 I followed Mr. Gonzalez into that bedroom;
24 however, there was a person sleeping in the bed there and
25 the person, to me appeared to be sleeping or drunk, because

1 he was strewn all over the room.

2 He said he didn't want to disturb that person,
3
4 so we would go into another room.

5 Q At the time you walked into the kitchen, to
6 the first bedroom or towards the first bedroom, was it only
7 you and Mr. Edwin Gonzalez?

8 A No.

9 Q Who was with you?

10 A It was Mr. Bermudez, myself, Mr. Julio
11 Gonzalez, and I think Mr. Ramon Gonzalez hadn't completely
12 entered the room. He was more or less standing to the rear.
13 He was like always standing back by the door.

14 Q Agent Blackburn, can you describe the
15 individual that you were introduced to as--

16 MR. ROCCO: I withdraw the question.

17 Q Agent Blackburn, at the time you entered the
18 kitchen were you introduced to the people located in the
19 kitchen?

20 A No, I walked in and nodded and they in turn
21 nodded back to me. There was no exchange other than with
22 Mr. Edwin Gonzalez.

23 Q The individual that you're referring to as
24 Freddy Gonzalez, how were you first either introduced to
25 him or how did you come to identify him as Freddy Gonzalez?

A Well, first of all, I noticed Mr. Gonzalez right away because he was wearing a burgundy blazer with dark slacks. Everybody else was casually dressed. The way I learned his name was from a person that I know as Enrico Bermudez. He told me that that was the person wearing the maroon jacket and dark pants was Freddy Gonzalez; the person seated at the table there.

Q That individual is in the courtroom today?

A The gentleman with the tan turtleneck and the jacket, the light jacket.

MR. ROCCO: Your Honor, if the Court will-- Would the record indicate that Special Agent Blackburn has identified the defendant Ramon Gonzalez?

THE COURT: Yes.

Q Just stepping back for a second, sir, we have reached the point that you were leaving the kitchen, accompanied by Mr. Edwin Gonzalez and others. You approached a bedroom. What happened after that?

A I was directed into-- I followed Mr.-- I was directed into another bedroom by Mr. Edwin Gonzalez. This was a bedroom further in to the rear of the apartment to the left, left.

Q After entering the second bedroom located to the rear of the apartment and to the left, what if anything

2 | happened?

A At that time I noticed that Mr. Edwin
Gonzalez was carrying a magazine in one hand and a white
powdery substance in another hand, that he identified as
cocaine.

7 Mr. Gonzalez walked -- Mr. Edwin Gonzalez
8 walked to the bed, placed the magazine on the bed, emptied
9 the contents of the little plastic bag that he had, that he
10 called cocaine, onto the magazine. At that time Mr. Edwin
11 Gonzalez instructed me to check out the coke.

12 Q Mr. Blackburn, stepping back for a minute,
13 did you accompany Mr. Gonzalez into the second bedroom?

14 A Yes, I did.

15 Q Did anyone else accompany you and Mr. Gon-
16 zalez into the second bedroom?

17 A Yes

18 Who was that?

19 A Mr. Julio Gonzales, Mr. Edwin Gonzalez, Enrico
20 Bermudez, and the person introduced to me, identified to me
21 as Cayo.

Q Do you recall who entered the bedroom last?

23 | A Yes, sir, I do.

24 O Who was that?

25 A Mr. Ramon or Freddie Gonzalez.

2 Q Do you recall if the door to the room was
3 open or shut after you entered?

4 A After I got into the bedroom, Mr. Freddie
5 Gonzalez shut the door and stood almost directly in front
6 of the door, so that if you were to walk in, you would
7 probably hit him with the door the way he was standing.

8 Q Agent Blackburn, how is it you recall the
9 defendant Ramon Gonzalez shut the door after everyone
10 entered the room?

11 A From working, having worked under cover for
12 quite a while, I'm always aware of who is standing by a door--

13 MR. FLAMMELT: Objection.

14 THE COURT: Overruled.

15 A (Continuing) I'm always watching to see who's
16 standing by the door, who is covering the windows, in case
17 something goes wrong that I have to get out in a hurry,
18 plus the fact Mr. Freddie Gonzalez, as I stated before,
19 had on the blazer which is a burgundy blazer.

20 Q Will you tell the Court and jury what happened
21 after you entered the room and the door was shut.

22 A As I stated before, Mr. Gonzalez, Edwin
23 Gonzalez, poured the white powdery substance that he had
24 identified as coke or cocaine onto the magazine, told me
25 to inspect it. I looked at it.

At that time I asked about the quality of the cocaine. At that time a person that was identified to me as Cavo stated that it was good cocaine; that it would take a good three and a half cut.

Q Agent Blackburn, can you tell the Court and jury what the expression "three and a half cut" means?

A Yes. The cut, three and a half, simply means that if I were to purchase, say, one ounce of cocaine and the cocaine would take a three and a half cut, then I would put three and a half -- I would put three and a half times that same amount of cut, adulterant, into it, so I could build up the quantity and still maintain the quality that would be used on the street. In other words, I would have three and a half times as much.

Q What if anything did you do after the defendant, Edwin Gonzalez, asked you to check out the cocaine or the coke?

A As I stated before, I looked at the cocaine and I commented that the coke looked really good. It was full of rocks and that's when -- rocks meaning the compressed cocaine (indicating).

I told him that the coke really looked good, had a nice sheen to it, and it really looked good.

At that time, like I said, I asked about the

2 quality and Cavo stated that it would take a good three
3 and a half and that it was good cocaine, guaranteed cocaine.

4 At that time Julio Gonzalez stated to Cavo,
5 he says, "It's not necessary to tell him that, because he
6 knows that the coke is good and he knows the coke is
7 guaranteed."

8 Q Mr. Blackburn, can you describe, or would you
9 describe how the individuals present in the courtroom were
10 situated, I mean where they located?

11 A The bed was against the back wall. I was
12 standing close to the bed. Mr. Edwin Gonzalez was standing
13 close to the bed. The person identified to me later as
14 Cavo was standing close to the bed. Julio Gonzalez was
15 standing back a ways and, as I stated before, Freddie, or
16 Ramon Gonzalez, was standing by the door.

17 Q What if anything happened after you examined
18 the substance described or identified to you as cocaine?

19 A After I examined it, I asked Mr. Edwin Gon-
20 zalez to help me repack the coke, because he had poured
21 it onto the magazine.

22 While he was helping me repack the coke,
23 we talked about the price. He stated that the coke would
24 cost me \$1100 a ounce.

25 I told him that that was quite expensive;

1 that I would gladly pay him \$900 an ounce.

2 At that time he stated that he wasn't making
3 much on the deal, so it had to go for \$1100.

4 I could see that the tension was beginning
5 to ease a little in the room, so I said, "I'll pay you
6 \$1,000 for it."

7 He says, "No."

8 Everybody kind of cracked a joke, the way I was
9 haggling about the price. He stated, "No," it had to go
10 for \$1100, if I wanted a better price on it, I would have
11 to buy bigger quantities.

12 At that time he said that, "If you buy an
13 eighth or better, the price would go down. The more you
14 buy, the lower the price would be."

15 With that, I noticed shortly thereafter, or
16 about that same time that Freddie Gonzalez and Julio Con-
17 zalez left the room while we were talking about the price
18 and repackaging the coke.

19 Q Agent Blackburn, did you eventually agree to
20 a price?

21 A Yes.

22 Q What was the price that you eventually agreed
23 to?

24 A Twenty-two, Twenty-two hundred.

2 Q Twenty-two hundred?

3 A Eleven hundred dollars an ounce.

4 Q After agreeing to the price, did you pay
5 \$2200 to Defendant Edwin Gonzalez?

6 A Yes, I did.

7 Q At the time that you paid him the \$2200,
8 who was present in the room?

9 A In the room there was this person identified
10 to me as Cavo, Edwin Gonzalez, Enrico Bermudez and myself.

11 THE CLERK: Envelope marked Government's
12 Exhibit 6 for identification.

13 Q Special Agent Blackburn, I show you what has
14 been identified as Government Exhibit 6 (harding) for
15 identification. Can you identify that?

16 A Yes, I can.

17 Q By what means can you identify it?

18 A The evidence sticker on the wrapper itself
19 has my name written, has my initials on it, also, when
20 I placed it into the envelope, I printed my name as the
21 sealing officer or official.

22 Q Now that you have identified it, will you de-
23 scribe what it is for the Court and jury.

24 A This is the cocaine that I purchased from
25 Mr. Edwin Gonzalez inside 1162 Willmohr, in Brooklyn.

2 Q Mr. Blackburn, after you purchased the
3 cocaine, what if anything happened?

4 A After I paid him and I had been advised by him
5 that I could come back and get any quantity that I wanted,
6 I left the apartment shortly thereafter with Mr. Enrico
7 Bermudez.

8 Q At the time that you left the apartment, what
9 if anything did you say?

10 A Did I see, or say?

11 Q See.

12 A See?

13 Q See.

14 A As I left the bedroom, I observed Mr. Julio
15 Gonzalez and Mr. Freddie Gonzales at the table snorting
16 a white powdery substance.

17 Q What do you mean by snorting?

18 A (Indicating) Intaking through the nostrils.

19 Q After you left the apartment, what if anything
20 did you do?

21 A I got in the O.G., Government vehicle, and
22 I left the area where I met with Special Agent Gerald Carr
23 and performed a preliminary field test of the cocaine
24 I purchased from Mr. Edwin Gonzalez.

25 Q What were the results of that field test?

2 A The cocaine tested positive for cocaine.

3 The white powdery substance tested positive.

4 Q What did you do after you received a positive
5 indication of the white powdery substance?

6 A I took the cocaine that I purchased from Mr.
7 Gonzalez back to the New York Regional Office where I again
8 conducted another field test on the white powder and
9 obtained another positive color reaction.

10 I then weighed the exhibit and sealed it in
11 this plastic bag (indicating) and affixed an evidence
12 sticker, signed it and placed it in the night depository
13 after entering the exhibit in the night duty log at the base.

14 Q Agent Blackburn, what's now marked for identi-
15 fication as Government Exhibit 6, is it substantially the
16 same condition today as it was on March 21, 1975?

17 A Yes.

18 MR. ROCCO: At this point I move its admis-
19 sion into evidence.

20 THE COURT: Anybody want to look at it
21 before it's received?

22 MR. FLAMHAFT. No.

23 MR. LEVITT: All right.

24 THE COURT: Let it be marked.

25 THE CLERK: Government Exhibit marked No. 6

1

in evidence.

3

(So marked)

1

Mr. Blackburn, just one last question:

5

Do you recall at this time the apartment the
first deal was negotiated in, the deal that took place on
March 21, 1975?

8

A I didn't know at the time whose apartment it
was.

10

THE COURT: Do you have any questions?

11

MR. FLAMMIAFT: I prefer not to.

12

THE COURT: Mr. Levitt, do you have any questions?

14

MR. LEVITT: Just a few questions.

14

CROSS EXAMINATION

16

BY MR. LEVITT:

19

Q Mr. Blackburn, I will ask you to direct your answers only as to the defendant that's my client -- Ramon Gonzalez.

2

Going back to this incident as you have testified to on March 21, 1975, did my client, whom you say you had been introduced to as Freddie, and then you said you believe Ramon Gonzalez, am I correct in that?

3

A No, sir, not your client.

2

9 Let me ask you this: Had you ever met

AFFIDAVIT OF MAILING

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK, ss:

EVELYN COHEN, being duly sworn, says that on the 2nd day of April, 1976, I deposited in Mail Chute Drop for mailing in the U.S. Courthouse, Cadman Plaza East, Borough of Brooklyn, County of Kings, City and State of New York, a BRIEF FOR THE APPELLEE of which the annexed is a true copy, contained in a securely enclosed postpaid wrapper directed to the person hereinafter named, at the place and address stated below:

Arlen S. Yalkut, Esq.

12 Spring Brook Road

Spring Valley, N.Y. 10977

Sworn to before me this
2nd day of April 1976

OLGA S. MORGAN
Notary Public, State of New York
No. 24-4501966
Qualified in Kings County
Commission Expires March 30, 1977

Evelyn Cohen